

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, October 16, 2002, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Steve Duvall, Gerry Krieser, Roger Larson, Patte Newman, Greg Schwinn, Cecil Steward, Mary Bills-Strand and Tommy Taylor. Marvin Krout, Ray Hill, Steve Henrichsen, Brian Will, Becky Horner, Duncan Ross, Tom Cajka, Greg Czaplewski, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Greg Schwinn called the meeting to order and requested a motion approving the minutes of the meeting held October 2, 2002. Carlson moved to approve the minutes, seconded by Newman. Motion for approval of minutes carried 8-0: Carlson, Duvall, Larson, Newman, Schwinn, Steward, Bills-Strand and Taylor voting 'yes'; Krieser abstaining.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Carlson, Duvall, Krieser, Larson, Newman, Schwinn, Steward, Bills-Strand and Taylor.

The Consent agenda consisted of the following items: **CHANGE OF ZONE NO. 3380, CHANGE OF ZONE NO. 3382, CHANGE OF ZONE NO. 3383, SPECIAL PERMIT NO. 1692B, SPECIAL PERMIT NO. 1990 AND WAIVER OF DESIGN STANDARDS NO. 02021.**

Item No. 1.3, Change of Zone No. 3383; Item No. 1.5a, Special Permit No. 1990 and Item No. 1.5b, Waiver of Design Standards No. 02021 were removed from the Consent Agenda and scheduled for separate public hearing. Steward moved to approve the remaining Consent Agenda, seconded by Carlson. Motion to approve carried 9-0: Carlson, Duvall, Krieser, Larson, Newman, Schwinn, Steward, Bills-Strand and Taylor voting 'yes'.

SPECIAL PERMIT NO. 1990,
HERITAGE LAKES DAYCARE FACILITY
and
WAIVER OF DESIGN STANDARDS NO. 02021,
TO ALLOW NON-PERPENDICULAR LOT LINES
TO RIGHT-OF-WAY,
ON PROPERTY GENERALLY LOCATED
AT SO. 91ST STREET AND HERITAGE LAKES DRIVE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Conditional approval of Special Permit No. 1990, except denial of the waiver of the sign requirements; and approval of Waiver of Design Standards No. 02021.

These applications were removed from the Consent Agenda at the request of the applicant and had separate public hearing.

Proponents

1. **Steve Clymer of Olsson Associates** appeared on behalf of the applicant and requested a two-week deferral. The applicant wishes to make revisions to the site plan. Duvall moved to defer, with continued public hearing and administrative action scheduled for October 30, 2002, seconded by Bills-Strand and carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

There was no other public testimony.

CHANGE OF ZONE NO. 3383,
FROM AG AGRICULTURAL TO I-1 INDUSTRIAL
ON PROPERTY GENERALLY LOCATED
AT NO. 70TH STREET AND ALVO ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Approval of H-2 zoning (instead of I-1) for the western ½ of the parcel.

This application was removed from the Consent Agenda at the request of the applicant and had separate public hearing.

Proponents

1. **Peter Katt** appeared on behalf of the applicant and requested a two-week deferral to give the applicant an opportunity to make sure the remaining half of the parcel is coordinated with this staff recommendation.

Steward moved to defer, with continued public hearing and administrative action scheduled for October 30, 2002, seconded by Carlson and carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

WAIVER OF DESIGN STANDARDS NO. 02020,
TO WAIVE THE REQUIRED TURNAROUND ON WAGON LANE
and
STREET VACATION NO. 01024,
TO VACATE THE WEST 60.15' OF WAGON LANE,
GENERALLY LOCATED SOUTHEAST OF
SOUTH 56TH STREET AND OLD CHENEY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Denial of Waiver of Design Standards No. 02020, and a finding of conformance with the Comprehensive Plan on Street Vacation No. 01024, with conditions of approval.

Proponents

1. **Steve Miller of Olsson Associates** presented the applications, which is tied to the proposed West Gate Bank headquarters building which the Planning Commission recommended for approval at the last meeting. The street vacation is needed to complete the final plat to put all the property together and proceed on to the City Council.

Miller believes the waiver of the turnaround requirement is justified due to the existing conditions in the area. The existing conditions are that Wagon Lane has not yet been constructed even though designated as a right-of-way, and it has been in this condition for over 20 years. So. 62nd Street provides the only street connection to Wagon Lane and is a gravel driveway which serves two residential properties. So. 62nd Street is also gated on the south end and does not proceed any further south. Miller indicated that he had spoken

with Kay Olson who lives on the south lot, 6101 Wagon Lane, and she has indicated that the property owners are responsible for maintaining So. 62nd Street, providing their own snow removal and the rock and gravel when that street is needed to be upgraded.

Miller acknowledged that the staff did offer one alternative; that is, to request the vacation of the entire Wagon Lane up to 62nd Street. This alternative was raised by staff on the condition that the applicant approach the property owners to discuss the vacation. West Gate Bank declined to do so. However, Miller did speak with Mrs. Olson and she indicated she would not be in favor because her address is off of Wagon Lane and it would be an inconvenience. She has lived in that house for over 20 years.

Miller respectfully requested approval of the waiver so that West Gate Bank can proceed with this signature building and development at this site.

Steward recalled the previous hearings on this issue and believes that at that time the indication was that West Gate Bank should work out something with the property owners. Did West Gate Bank decline to approach the property owners? Miller indicated that he was instructed by West Gate Bank not to approach the property owners; however, he did talk with Mrs. Olson, who has indicated she is not interested in that vacation. Only one of the property owners was contacted.

There was no testimony in opposition.

Staff questions

Steward confirmed with staff that the properties east of 62nd Street are acreages. Tom Cajka of Planning staff concurred. Steward further commented that this is one of the areas where there has been considerable discussion about urbanizing and the build-through conditions. Ray Hill of Planning staff indicated that the Hawkswood Estates subdivision is located several hundred feet to the east where there were several acreage owners that went together to lay out a street pattern and lot arrangements to subdivide their larger lots down to a more urban size project, but it did not include this land nor the land immediately east of 62nd Street.

Steward inquired whether there is an impact to this particular street in question (Wagon Lane) and 62nd Street? Is there potential future traffic relationships that we should take into account? Dennis Bartels of Public Works stated that the reason he made the recommendation that the turnaround should be addressed now is because the existing right-of-way extends into this West Gate Bank project. If it would have stayed as a residential use, the street would have been required to be extended into West Gate Bank and a cul-de-sac created. When it comes to subdivision of this property, the responsibility for meeting the subdivision standards and dedicating the right-of-way will fall on the two residential properties on Wagon Lane. They could vacate the whole street if both parties were willing, or it could be shortened with a cul-de-

sac built half-way between the two. If one side wants to subdivide and the other does not, then the requirement could fall on one property owner. He did not believe it was fair to place the responsibility on the two east property owners because they were not parties to this vacation.

Bartels also clarified that 62nd Street and Wagon Lane are in the city limits now and could be served with sewer and water today, so he does not believe the build-through requirements being discussed really apply to this area.

Carlson sought confirmation that the staff recommendation seeks to avoid shifting the Bank's burden onto the two property owners. The question is: Do we know if the two property owners care? He is concerned that the bank has not talked with both of them. Cajka indicated that they would have received notice of this public hearing from the Planning Department. But Carlson does not believe the staff report indicates that those two property owners have any responsibility.

Bartels further clarified that Wagon Lane is not improved. He is not necessarily asking that a turnaround be constructed with this project. His concern is that the right-of-way issue be taken care of. He is not in favor of a dead-end street with no provisions for turnaround because it can be subdivided.

Bills referred to the map on p.75 of the agenda. If subdivision were to occur off Wagon Lane with a cul-de-sac, wouldn't the smartest way be to move the cul-de-sac more to the east to have lots off the west side of the cul-de-sac? Bartels agreed. If both property owners were subdividing at the same time, that would be the smartest thing to do. But if they do not both want to subdivide, then the one property owner may be forced to put in the cul-de-sac, dedicating the right-of-way off his side and dedicating the entire length. Bills suggested that even if West Gate Bank was there and was participating, and the property owner to the north did not want to subdivide, that is still going to be the case and the majority of the cul-de-sac would come off the south property line. Bartels suggested that the entire cul-de-sac could have been dedicated on the West Gate Bank property. By vacating, it shifts the responsibility to those two property owners and there are ways that it could be taken care of, but he has not heard that those property owners have been contacted.

Public hearing was closed.

WAIVER OF DESIGN STANDARDS NO. 02020

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Steward moved to deny, seconded by Taylor.

Steward thinks this is an action created by a developer without due regard to the city's requirements or the appreciation of the difficult position in which it puts the other two property

owners. He believes there is more than one solution. If design proximity of a potential on-bank property is a consideration, they could purchase the right-of-way from the other two property owners and settle it in another way. It is being created by the Bank's action and he believes they need to solve it.

Schwinn will vote against the motion. He believes this would be an exercise in futility to make any efforts to decide now what the two property owners want to do in the future. If they cared, they would be here to say something.

Motion to deny failed 4-5: Steward, Carlson, Newman and Taylor voting 'yes'; Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'no'.

Duvall moved approval, seconded by Larson and carried 5-4: Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'yes'; Steward, Carlson, Newman and Taylor voting 'no'.

STREET VACATION NO. 01024

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Tom Cajka of Planning staff advised that approval of Waiver of Design Standards No. 02020 would change the conditions of approval on this street vacation. Condition #1.2 should be deleted and Condition #1.3 should be amended to add language that all conditions of the final plat must be met except for the turnaround on a dead-end street.

Duvall moved a finding of conformance with the Comprehensive Plan, with amendments to the conditions as set forth above, seconded by Larson and carried 5-4: Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'yes'; Steward, Carlson, Newman and Taylor voting 'no'.

COMPREHENSIVE PLAN AMENDMENT NO. 02001
TO INCLUDE PROPERTY GENERALLY LOCATED
BETWEEN 84TH AND 120TH STREETS, FROM SOUTH
OF PIONEERS BLVD. TO "O" STREET, AS INSIDE
THE FUTURE SERVICE LIMIT;
TO CHANGE FROM URBAN RESIDENTIAL TO
COMMERCIAL ON THE NORTHEAST CORNER OF
84TH AND VAN DORN STREETS; AND TO
CHANGE FROM URBAN RESIDENTIAL TO COMMERCIAL
ON THE SOUTHEAST CORNER OF 84TH AND SOUTH STREETS.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Approval to include the land in the Future Service Limit; denial of Proposal A at 84th & Van Dorn Streets; and denial of Proposal B at 84th and South Streets.

Steve Henrichsen of Planning staff explained that these changes were part of the E-3 area--Stevens Creek--consisting of seven square miles which was the area added by the Planning Commission and adopted by the City Council and County Board in May. That adoption only changed the Future Service Limit. It did not make any changes in the land use, transportation or any of the other sections. The purpose of this amendment is to update the Comprehensive Plan to include those items. At the present time, we do not have the resources identified for the additional area as to how to provide for these additional improvements nor the overall improvements for the water and street systems, but those issues continue to be addressed as part of the Infrastructure Financing Strategy.

Henrichsen also explained that after the Planning Commission hearing on the Comprehensive Plan in April, the two Proposals A and B were brought to the City Council and County Board. Those bodies requested that Proposals A and B be returned to the Planning Commission for consideration.

Proposal A: 84th & Van Dorn Streets:

1. Jim Hutchinson of Hutchinson Design presented Proposal A. Presently, to the west, there is a large residential multi-family development. To the south is Lincoln Benefit Life, which is now searching for ancillary uses such as a small shopping center, bank, laundry, restaurant, and things of that nature. The proposal is to provide a mixed use to also provide a residential area. They are not proposing to develop the entire site. Hutchinson concurred that there are some problems with sewerage, but they have had several engineering studies done, indicating that a contour line of 1143 would naturally drain this system into the Van Dorn sewer line. They are unsure where the ridge line actually is located. There has been discussion that it might possibly be the mile marker line or maybe it's the contour line on this owner's property--we don't know. The north portion of this property could be sewerage to Van Dorn Street and they could also go north. This is not a proposal to accept the design today. This is an effort to have the opportunity to work with the Planning Commission and the staff on a design to start to develop just a small portion of the property and then develop a large portion and then a park development. This is a request to be designated as a mixed use. It will not be farm land forever.

Hutchinson then showed concept plans for Firefox. They are now looking at more of a residential type atmosphere with the split rail fence. They are trying to follow the topographic areas of the existing land. There is a potential health hazard of the low area.

There is an embankment filled with trees and he wants to work with the city to find out the correct way to deal with that. There are no barricades at the present time. They foresee a small center with shops for grocery (no large corporations) and some other smaller shop facilities.

2. Mike Marsh, Realty Trust Group, stated that Realty Trust Group has been working on this project for approximately 5 years. There was an issue as to what was originally proposed and they have met with the city and minimized the fill amount and reduced to a smaller buildout. The developer's engineers have determined that the property does gravity flow to the Van Dorn section for sewer. They have also worked with City staff regarding the access points for safety issues and traffic projections. There will be 43,000 cars per day at this intersection so they have gone to great lengths to make sure the access points are safe and convenient. The developer has come to a solution where they are minimizing the development and minimizing any dollars that the city will need to pay; and the developer's engineers have shown that it is not a burden on the existing sewer system. Marsh believes this is a win-win for both the developer and the city for future tax dollars. Marsh stated that there is capacity in the sewer system to take on a project like this. They will continue to work with the city on the capacity issues and make adjustments, if necessary. But, they need to be included in the Comprehensive Plan to proceed with resolving any further issues.

Steward observed that if this developer has been working on this project for 5 years, it means they have been holding options on the land for that long. Marsh indicated that they do own the property. Steward inquired as to what assurance the developer can give the City that this is where a commercial center should be located in terms of the Comprehensive Plan. Marsh believes this is an area that is well suited for a neighborhood shopping center. Steward believes that could be questionable without knowing what the surrounding development is going to be. Marsh further observed that the general area is an area that Planning staff said was an appropriate area. Steward believes all of the rest of the development is going to depend on some infrastructure process that is going to take 4-5 years. Marsh believes they have the opportunity today and believes they can stay within the city standards.

Proposal B: 84th & South Streets:

1. Mike Marsh of Realty Trust Group presented this request for commercial designation on approximately 20 acres. Dave Northey will be bringing forward a development proposal for a tennis park. Dave Northey will be the developer and owner.

2. Dave Northey, 2033 Manor Court, the owner and developer of the proposed tennis facility, testified in support. This is something he has been working on for over a year. He believes it will be very beneficial to the city. One of the issues is South Street which is not there right now, and he is working on that as being a possible access location. They are proposing a lagoon which is in the northeast part of the section. Another option is annexation which would allow the use of city water. This will be a world class tennis facility. It has not been seen in the Midwest. Northey has 25 years in the business. There will be 12 indoor courts and it will be

a full scale facility as far as a health club scenario. There will also be outdoor courts. It will be one of the four junior world class training centers in the country. It would involve some small scale tournaments. From a revenue standpoint, it would be a great opportunity for Lincoln. This is a place where the University would like to train. With this facility, the juniors won't have to leave Lincoln to stay in the tennis sport.

There was no testimony in opposition.

Staff questions

Carlson referred to Proposal B at 84th and South Street and wondered whether a recreational facility could be done in the existing AG zoning. Henrichsen stated that it is not necessary to designate the property as commercial in order to apply for a special permit for a recreational facility.

Carlson then referred to Proposal A at 84th & Van Dorn, and inquired about the criteria for selecting a neighborhood center site. He does not understand how there can be no cost to the city. Henrichsen advised that in terms of neighborhood centers, the Comprehensive Plan does not specifically designate where the neighborhood center is going to be located for new areas into which the city is growing. It calls for a process where we look at all the potential sites and what would be most appropriate in terms of a variety of factors, and that is still the staff's recommendation within this square mile. The vast majority of this mile is part of this Stevens Creek area that could be served in the longer term (12 years or more away, Priority B), so the staff is not recommending that the neighborhood center be designated at this point.

Henrichsen further advised that Realty Trust Group had submitted information 5 years ago that showed two sewer alternatives and those were reviewed and it was determined that neither met the city staff recommendation as being in conformance with the subdivision ordinance or Comprehensive Plan. The staff has not received any information showing that the city services could be provided by gravity. Realty Trust Group thought that perhaps a smaller area could be served by gravity and they have said they will provide information showing how a smaller portion might be served. But at this point, the staff is not recommending it since we don't have information showing it can be served.

Carlson noted that there is an older letter from the city that indicates that it is feasible for sewer but neither option meets the design standards. Dennis Bartels of Public Works suggested that if you were going to try to sewer to Van Dorn, the city sanitary sewer is about 600' west of 84th Street. If you extended that sanitary sewer at minimum grade east to 84th, you would be into the pavement elevations. To sewer by gravity you have to go through a hill and lower the sewer before you catch up with grade to make it sewer by gravity. Even beyond that point, we have some concerns about capacity in the Antelope Creek system to which this would be heading. If it goes to 84th and South, that sewer outlets to Dead Man's Run. We have some

surcharging that occurs downstream in Dead Man's Run north of "O" Street, meaning that the sanitary sewer flows full and water accumulates on top of the pipe in the manholes—beyond its design capacity downstream.

Schwinn confirmed that at 84th and South Street, the developer could come forward with a proposal for a recreational facility in the AG zoning. Would the lagoon be acceptable? When would annexation occur? Henrichsen suggested that they can bring that proposal forward without a Comprehensive Plan Amendment.

With regard to cost implications, Bartels suggested that probably the biggest cost would be at 84th and Van Dorn as it is not improved to an urban cross-section. The letter system has not been extended down that roadway. The cost of urban type street paving and traditional oversize water main in Van Dorn would become an issue. Obviously 84th has been built to urban cross-section and we have water in that area. The other potential cost implication would be sewer capacity issues. Schwinn believes there would also be quite a bit of grade change on Van Dorn heading east. Bartels recalled that to grade it to traditional urban cross-section there would have to be considerable amount of fill and there may have to be some adjustments to the grade for platform requirements or sight distance.

Response by the Applicant

Hutchinson stated that he wants to be able to work with the city to do a final determination on the gravity flow because he has a feasibility letter.

Public hearing was closed.

**COMPREHENSIVE PLAN AMENDMENT NO. 02001
TO INCLUDE LAND GENERALLY LOCATED
BETWEEN 84TH AND 120TH STREETS, FROM
SOUTH OF PIONEERS BLVD. TO "O" STREET,
AS INSIDE THE FUTURE SERVICE LIMITED.
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

October 16, 2002

Duvall moved approval, seconded by Larson.

Duvall commented that this area was part of that basin that the Planning Commission approved as part of the Comprehensive Plan. Now we're putting everything into order as part of that big package to be our guide.

Steward does not believe that is how it happened. He believes this land was added after the Planning Commission acted and it was recommended by the City Council and County Board.

Motion for approval carried 8-1: Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'; Steward voting 'no'.

COMPREHENSIVE PLAN AMENDMENT NO. 02001.A
PROPOSAL A: URBAN RESIDENTIAL TO COMMERCIAL
AT 84TH & VAN DORN STREET.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Carlson moved to deny, seconded by Steward.

Duvall believes this will eventually be a commercial area. We do have the sewer issue, but he thinks the city is going to have to work on this in the near future.

Newman commented that it appears to be a great project, but it's just the wrong time.

Schwinn needs to see this come forward in a full package. He agrees that this will be a commercial designated area; however, living in that neighborhood and understanding the topography of Van Dorn east of 84th, he realizes there is a huge amount of redesign involved to make that work and he does not see this would be germane for just a small portion.

Motion to deny carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 02001.B
PROPOSAL B: URBAN RESIDENTIAL TO COMMERCIAL
AT 84TH AND SOUTH STREET.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Carlson moved to deny, seconded by Steward.

Carlson believes the project proposed by the developer can be accommodated in the AG zoning. Schwinn agreed. We have had indication from staff that this project can move forward without changing the Comprehensive Plan.

Steward believes this would be a terrific project for the city to have as a recreational facility and he is hopeful that it can find its way through the process, but this is not the route.

Motion to deny carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 02002

14 LAND USE PROPOSALS.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Steve Henrichsen of Planning staff advised the Commission that these are the 14 land use proposals which came before the Planning Commission last April during the Comprehensive Plan update. The Planning Commission had recommended that these proposals be held over, and the City Council and County Board agreed. Proposal #1 requested by the School Sisters of Christ the King will not be heard today. The applicant previously requested that this proposal be deferred.

(Editorial Note: The Commission held public hearing on all 13 land use proposals before taking administrative action on any of them. Once the public hearing was closed, the Commission went back to Proposal #2 and voted on each proposal separately. For purposes of organization and clarity, the action taken by the Commission at the close of the public hearing is being inserted with the appropriate proposal within this minutes documents.)

COMPREHENSIVE PLAN AMENDMENT NO. 02002

PROPOSAL #2

**TO REFLECT CURRENT UNL BOUNDARIES AND FUTURE
EXPANSION OF THE DOWNTOWN CAMPUS AND EAST
CAMPUS.**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Approval.

Proponents

1. John Benson, Director of Institutional Research and Planning, testified on behalf of the University. Last spring, the University noted that the land use design in the Comprehensive Plan no longer reflected the University ownership status or land use. The University proposed modification of the land use design for the downtown and east campus to reflect the 1998 UNL Campus Master Plan. The proposed amendment is in conformance with the Antelope Valley plan and more accurately reflects the University land ownership.

Newman inquired as to whether the University has met with the private property owners that own the property that is designated presently as residential use as opposed to the public use. Benson indicated that most of the area within the city campus consists of sororities and fraternities, and the University has not met individually with them; however, the University does view that area as an important part of the University's campus life and would hope that the historic designation would continue. The East campus changes involve land currently owned by the University.

Newman referred to the eastern border of downtown campus consisting of home and personally-owned businesses. Benson does not believe there are any homes north of Q Street. That is referred to as the "zipper zone" where the two work together. The proposed amendment is viewed as a long range indication of the type of use that the community will see, not as an indication of changing the zoning in that area or acquiring property in that area.

Steward inquired whether there is any deviation from the Antelope Valley project. Benson stated that the proposal does not deviate from the Antelope Valley project in any way. The University worked very hard when the Campus Master Plan was put together to be sure to mesh exactly with the Antelope Valley project. Steward believes it is the Antelope Valley project components which constitute the eastern border of the campus and Benson concurred.

Benson observed that there were commercial and industrial designations in the old Comprehensive Plan that did not reflect the way the University currently uses the campus and this is an effort to clean that up.

Carlson asked staff to address the impact of the public/semi-public Comprehensive Plan designation on an existing business owner. Henrichsen advised that such a designation does not change the existing zoning. Last spring the question came up as to whether it would change the property value if the University or city was going through a condemnation and they could not work out the private purchase. Urban Development followed up with the City Attorney and it was determined that the most important issue was the zoning and that the public/semi-public designation would not affect the property values. This amendment provides notice to future property owners that it is an area that the University is looking to step into in the future.

Newman reiterated the question as to how the property owners in this area are notified that this is coming. Henrichsen believes this would have occurred during the Antelope Valley hearings and meetings, although he would not guarantee that everyone knows that this is coming. But, in general, Antelope Valley is something that has been discussed across the community.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02002.2
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Duvall moved approval, seconded by Bills and carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 02002
PROPOSAL #3
FROM AGRICULTURE TO LOW DENSITY RESIDENTIAL
ON PROPERTY GENERALLY LOCATED
AT SO. 82ND STREET AND ROCA ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Denial.

Proponents

1. **Tom Huston** 233 So. 13th, Suite 1900, testified on behalf of the applicant, **Alan Baade**. Huston suggested that this is a classic example of "be careful what you ask for". When this amendment was deferred during the Comprehensive Plan process, Huston continually asked Mike DeKalb of Planning staff when it would be coming forward, not knowing where it would fit within the studies called for in the Comprehensive Plan. Huston agrees that this is a premature application and suggested that this application be deferred until the cost of service study and performance standards are brought forward. This proposal should be considered based on those new standards.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02002.3
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Steward moved to defer as requested by the applicant, seconded by Larson and carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 02002
PROPOSAL #4
FROM AGRICULTURE TO
LOW DENSITY RESIDENTIAL
and
CHANGE OF ZONE NO. 3370
FROM AG AGRICULTURAL TO
AGR AGRICULTURAL RESIDENTIAL
ON PROPERTY GENERALLY LOCATED
AT SO. 112TH TO 120TH STREETS,
SOUTH OF OLD CHENEY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Denial of both the Comprehensive Plan Amendment and the Change of Zone. If the Comprehensive Plan Amendment is approved by the Planning Commission, staff recommends that the Change of Zone also be approved.

Proponents

1. Kent Seacrest appeared on behalf of the applicants, **Connie Heier and Patricia Slaughter**. Winona Ketelhut is not an owner of any of the property and is not a party to this proposal. Seacrest also requested that the associated Change of Zone No. 3370, Item No. 3.5 on today's agenda, be read into the record to be heard at the same time as this Comprehensive Plan Amendment. The Commission agreed and the Clerk read Change of Zone No. 3370 into the record.

The purpose of the change of zone from AG to AGR is to allow acreage development on approximately 220 acres.

Seacrest noted that there are four other proposed Comprehensive Plan Amendments being considered today for low density residential and staff is recommending denial. He believes the fact pattern on this proposal is different from the others in many ways. Seacrest's clients have had plans to develop this property into acreages for over 5 years, but there was something called the East Beltway Study and all discussion of rezoning in this corridor was prohibited. These applicants were good corporate citizens and waited. Then it became time to do the new Comprehensive Plan. Again, these applicants went through the proper process. They applied over a year ago for the Comprehensive Plan

designation and went through the Comprehensive Plan process. During that process acreage development became controversial. Seacrest came along with others to propose the “build-through” acreage model that was adopted as part of the Comprehensive Plan. To his clients’ credit, they also endorsed the build-through model.

Then at the time of the approval of the Comprehensive Plan, the Planning Commission decided to delay this proposal and then “we became known as the ‘twilight zone’”. When we are here today, what standard are you judging us on? The old plan, or the new plan (which the Commission could have voted on that day and chose not to)? The Mayor tried to address the “twilight zone” issue and Seacrest read from the Mayor’s letter dated June 11, 2002:

“...I also understand the consideration of “fairness” and the difficulty these transitional situations present in reviewing proposed development. As such, I am prepared in this case to support the Commission, Council and Board should you choose to review these applications using the standards from the prior Comprehensive Plan. ...”.

Seacrest believes this should be the standard followed. Thus, Seacrest went on to state that within this section there are eight existing acreage developments. Immediately to the west across 112th Street there are 44 acreage developments. We have Old Cheney Road and Pine Lake Road. The property can be served by a rural water district. The Stevens Creek Master Plan shows a NRD detention pond on our site. This is a great mixed-use opportunity. The staff report even indicates that we do not have primary soil. There are two school sites, churches, parks and a new shopping center in the near area, providing all the urban type services. Seacrest submitted that this proposal meets and exceeds the prior Comprehensive Plan standard for acreage designation.

As far as the new Comprehensive Plan, Seacrest pointed out that this property is shown as Tier II (acreages are prohibited in Tier I). It provides that Tier II and Tier III should be based upon a “build-through” model. That model suggests that where and when you come in with the rural standard of 3-5 acres, with rural water, rural sewer, and rural roads, you must master plan so that you can bring in the urban services if and when they are ready to come in, i.e. show where the utility corridors are and agree that they can be split.

Seacrest pointed out that the staff recommendation of denial again asks these applicants to wait for 3 more studies which have been incorporated in the new Comprehensive Plan. Pursuant to the Mayor’s letter of June 11, 2002, Seacrest believes that this proposal should be judged on the prior standards as opposed to waiting for the three studies. With the ability to have rural water, this proposal does not have a water quantity or quality problem, and we have repeatedly pledged to submit a preliminary plan based on the “build-through” model. Seacrest purported that there is no reason to turn this down. Approving this request will not “let the horses out of the barn”. There are only four applications that were submitted prior to

the Comprehensive Plan. This is not going to set a precedent. This proposal clearly meets the standards of the old Plan, which, according to the Mayor, is the “fair standard”. Seacrest looks forward to working on the “build-through” model. He believes this proposal can meet the spirit of the new Plan.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02002.4
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Bills-Strand moved approval, seconded by Duvall.

Steward commented that in spite of the applicant’s appeal for “fairness”, he believes “appropriateness” is a better issue. He believes too much has happened since the approval of the Beltway and the Comprehensive Plan to make this an appropriate location for the proposed use and he will oppose the motion.

Newman agreed with Peter Katt’s testimony on Proposal #5. It’s either all or nothing, and she will be voting against all of the acreage proposals until we get that “build-through” model.

Motion for approval carried 5-4: Bills-Strand, Krieser, Larson, Duvall and Schwinn voting ‘yes’; Steward, Carlson, Newman and Taylor voting ‘no’.

CHANGE OF ZONE NO. 3370
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Duvall moved approval, seconded by Newman and carried 5-4: Bills-Strand, Krieser, Larson, Duvall and Schwinn voting ‘yes’; Steward, Carlson, Newman and Taylor voting ‘no’.

COMPREHENSIVE PLAN AMENDMENT NO. 02002
PROPOSAL #5
FROM GREENSPACE TO LOW DENSITY RESIDENTIAL
ON PROPERTY GENERALLY LOCATED
AT 112TH STREET, SOUTH OF PINE LAKE ROAD
(HIDDEN VALLEY GOLF COURSE).
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Denial.

Proponents

1. **Peter Katt** appeared on behalf of the applicants, the owners of the **Hidden Valley Golf Course**. Katt purported that Seacrest's allegation that the previous Proposal #4 and Change of Zone No. 3370 are unique is a slight exaggeration. This one is within walking distance of the property in Proposal #4, so to the extent a decision is made to indulge these proposals under the old Comprehensive Plan standards, Katt urged that this proposal is the same as Proposal #4 and should be approved.

However, given the staff comments with regard to waiting for the new standards, Katt recalled the last time we updated the Comprehensive Plan in 1994-95, when the County portion of the plan was deemed to be incomplete and there was a request that additional standards come forth, one of which was some type of acreage development policy. Katt believes that waiting another 3-6 months to finally get an acreage policy is too long. He would, however, not have any objection to this proposal being placed on pending to be brought forward simultaneously with the acreage policy development standards that are long overdue. In that regard, Katt submitted a proposed motion:

I move to place items 5, 6 and 7 on pending, to be rescheduled on our Agenda with the new Acreage Policy as called for in the Comprehensive Plan. Planning Commission expects the Acreage Policy package to be returned to the Agenda on or before _____, 2003.

He believes that some reasonable time line should be placed on when the acreage policy will come back on the agenda. He believes 60 days is plenty of time and 90 days is not unreasonable. At the open house at Beattie Elementary, the staff indicated they would have no problem in getting these standards proposed and brought forward before the end of this year.

Mike DeKalb of Planning staff clarified that the new Comprehensive Plan called for three related studies, one being the cost of service, the scope of which the staff is working on now with the consultant; the "build-through" development standards; and the performance point system for reviewing changes in density. The Comprehensive Plan suggests that these studies be done within 12 months, which would be next June. He anticipates that there will be an overlap and some of the studies will be done earlier than others. 30 or 60 days is not possible.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02002.5

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Duvall moved to place on pending for 90 days, seconded by Larson.

Steward moved to amend to defer until the condition of the Comprehensive Plan for the completion of the studies is consummated, the time line being based upon when the Comprehensive Plan was adopted, seconded by Carlson and carried 6-3: Steward, Bills-Strand, Larson, Carlson, Newman, and Taylor voting 'yes'; Krieser, Duvall and Schwinn voting 'no'.

Schwinn views this as being nearly the same as Proposal #4, and he would probably have voted to make this change on this item right now rather than doing the deferral. Therefore, he will vote against the deferral.

Main motion, as amended, carried 5-4: Steward, Larson, Carlson, Newman and Taylor voting 'yes'; Bills-Strand, Krieser, Duvall and Schwinn voting 'no'.

COMPREHENSIVE PLAN AMENDMENT NO. 02002

PROPOSAL #6

FROM AGRICULTURE TO LOW DENSITY RESIDENTIAL

ON PROPERTY GENERALLY LOCATED AT

THE NORTHEAST CORNER OF S.W. 70TH STREET

AND WEST VAN DORN STREET.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Denial.

Proponents

1. **Peter Katt** appeared on behalf of the applicant, **Richard Berger**, and submitted a proposed Motion to Amend:

I move to place items 5, 6 and 7 on pending, to be rescheduled on our Agenda with the new Acreage Policy as called for in the Comprehensive Plan. Planning Commission expects the Acreage Policy package to be returned to the Agenda on or before _____, 2003.

With regard to the timeline, Katt pointed out that the Comprehensive Plan moved out of the Planning Commission in March or April, 2002. If we are going to be consistent, one would think that the one year time line should be calculated from when the Comprehensive Plan was approved by the Planning Commission. An acreage development policy for the county has been an area that has lacked adequate planning for well over a decade, and without some direction and some timelines placed on the staff, he does not believe it will happen. It is a policy that staff has opposed and delayed consistently and they need some direction and guidelines on bringing it forward. All of these properties are very similar. They are beneficial for acreage development in the county. The policy direction has been set; if staff wants some refinement of that policy—fine, but let's get the job done.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02002.6
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Steward moved to defer until the condition of the Comprehensive Plan for the completion of the studies is consummated, the time line being based upon when the Comprehensive Plan was adopted, seconded by Carlson and carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 02002
PROPOSAL #7
FROM AGRICULTURE TO LOW DENSITY RESIDENTIAL
ON PROPERTY GENERALLY LOCATED
AT THE SOUTHWEST CORNER OF
NO. 84TH STREET AND WAVERLY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Denial.

Proponents

1. Peter Katt appeared on behalf of the applicant, **Pearle Finigan**. Mr. Katt's testimony on Proposals #5 and #6 also apply to this proposal.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02002.7
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Steward moved to defer until the condition of the Comprehensive Plan for the completion of the studies is consummated, the time line being based upon when the Comprehensive Plan was adopted, seconded by Taylor and carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 02002
PROPOSAL #8
FROM AGRICULTURE AND AGRICULTURE STREAM CORRIDOR
TO INDUSTRIAL
ON PROPERTY GENERALLY LOCATED
AT NO. 162ND STREET AND HIGHWAY 6.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Denial.

The Clerk distributed a letter from the applicants, **Arvid and Wava Wunderlich** in support. Due to illness, the applicants were unable to attend the hearing.

Schwinn sought clarification that this property is currently shown in the plan as Agriculture. Mike DeKalb of Planning staff stated that it is currently zoned AG and AG Stream Corridor. The request is for a change to Industrial. Schwinn noted that the designation for this property was not changed in the new Comprehensive Plan.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02002.8
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Duvall moved to deny, seconded by Newman.

Duvall commented that the time has not yet come for this change.

Motion to deny carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 02002
PROPOSAL #9
FROM PUBLIC/SEMI-PUBLIC AND GREENSPACE
TO COMMERCIAL, ON PROPERTY GENERALLY
LOCATED AT THE SOUTHEAST CORNER OF
NO. 84TH STREET AND HAVELOCK AVENUE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Denial.

Proponents

1. **Bill Austin** appeared on behalf of the applicant, **Lancaster County Agricultural Society**. Since the inception of the Event Center and development at 84th and Havelock, the Ag Society has assumed that the remainder of the land around the site would at some point be developed with complementary uses such as hotel, motel and restaurant. Water and sewer are available but staff indicates that they would anticipate that the Regent Heights sewer would be utilized. There are roads. 84th and Havelock is an area that is developing. It makes sense to request a commercial designation as they assumed the commercial designation would further the goal of the development of this site. It would also facilitate discussion with people who might be interested in developing on behalf of the Ag Society. There is no intent to seek a designation to sell the property for office use. The goal is to lease out the site and keep it under the auspices of the Ag Society with availability to the Ag Society for continued revenue stream and assistance in the continual financing of the Event Center. Having the commercial designation in place would be one less hurdle that would need to be overcome at such time as individuals or entities are found to develop the site.

Austin recognizes that the staff is recommending denial and the Ag Society does understand some of the concerns, one of which is that they are leery of having this site designated as commercial and the possibility of an ownership change and zoning changes in the future. The Ag Society recognizes the floodplain and the need for limited development.

Austin stated that the Ag Society would certainly want to work with the staff in developing a comprehensive development plan for the site and will continue to do so, even if this proposal is turned down.

Austin did not know how the building is currently sewerred.

Steward inquired whether the proposed commercial plans were obvious at the time the original building was built and the site developed. Austin believes that they were. He believes they had talked with the County Board about developing a hotel or motel, something to complement the events. Steward did not recall anything coming before this Commission that indicated future development of that site. Austin did see some of the brochures showing future development, but he does not know where they were distributed.

Carlson asked the applicant to respond to the fact that the new Comprehensive Plan discourages the development of new commercial and industrial in the floodplain. Austin responded that to some extent, this is a unique development and it would not be such a significant deviation from what the Comprehensive Plan contemplates to recognize a need for some complementary uses there. The Ag Society can show that it would be beneficial to have some restaurants and/or some hotel or motel type facilities to make the Event Center more financially strong and usable.

Carlson asked staff whether there is any information that this was planned all along. Duncan Ross of Planning staff stated that the Event Center did not come before the Planning Commission because the Ag Society is a governmental entity. Therefore, it did not require the review and approval of the Planning Commission and City Council.

Carlson asked staff to respond to the floodplain issue. Ross stated that there are approximately 12 acres that are not in the floodplain. This was not designated commercial and industrial and it would be a policy decision about designating commercial and industrial development in the floodplain. The staff concluded that more information regarding the entire site is needed.

Being a governmental subdivision, Schwinn wondered whether this would come back before the Planning Commission again. Steve Henrichsen of Planning staff stated that any use run by the Event Center would not have to come back to the Planning Commission; however, if they were constructing buildings for a non-public use, such as leasing to a restaurant or motel, that would require a change of zone which would come back to the Planning Commission.

Schwinn believes that this property has been annexed. Henrichsen concurred. There is an annexation agreement regarding the utility services. The main building is on city sanitary sewer today.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02002.9
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Larson moved to deny, seconded by Carlson.

Schwinn stated that he will vote against the motion. He believes this would be an appropriate place for the Ag Society to have the facilities they are proposing. The site is less than 50% floodplain and he believes it can be mitigated. He would like to see this happen to support the Ag Society.

Motion to deny carried 6-3: Steward, Bills-Strand, Larson, Carlson, Newman and Taylor voting 'yes'; Krieser, Duvall and Schwinn voting 'no'.

COMPREHENSIVE PLAN AMENDMENT NO. 02002
PROPOSAL #10
FROM URBAN RESIDENTIAL TO COMMERCIAL
ON PROPERTY GENERALLY LOCATED AT THE
SOUTHWEST CORNER OF NO. 84TH STREET AND ADAMS STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Denial.

Proponents

1. **Kent Seacrest** appeared on behalf of the applicant, **North Forty Golf, Inc.**, the owner of the North Forty Executive Golf Course and driving range on Adams and No. 84th Street. The owners have a 40-acre tract, and while they do not have immediate plans, they do intend to someday take the 40 acres and lay out a 16-acre buffer of residential around 24 acres of commercial at the corner. The applicant recognizes that this will require a change of zone to B-2 or O-3 to allow those commercial uses, which would also require a use permit with all the detail and traffic studies. Seacrest believes that commercial is appropriate on a portion of this site because there is currently a retail golf shop, lighted driving range, putt-putt miniature golf course, restaurant and liquor permit on the property. The nearest neighborhood center is about 2 miles away.

Seacrest explained that the owner has a recreational facility, which is allowed in the AG district, and which allows the existing commercial uses as accessory uses.

Steward inquired as to the status of the adjacent proposed residential. Seacrest responded, stating that to be his client's property and the owner believes that the only neighborly thing to do would be to "buffer ourselves against ourselves". Our own future homes would be the buffer between the existing homes and the proposed commercial on the corner.

Carlson inquired about access. Seacrest noted that there would be a traffic study as part of the use permit. While we believe there is a place to put a full turn movement and meet spacing requirements, until we do that traffic study we cannot make that determination. If the traffic study shows we cannot have a full turn movement, we won't be the first commercial to live with a right-in, right-out. Seacrest believes they can provide internal circulation without going out on the arterial network.

Schwinn noted that this proposal has perennially been recommended for denial. What are the concerns? Steve Henrichsen of Planning staff stated that there are several concerns. If the precedent is to say that any golf course facility that has a gift shop or any of the accessory uses that go with a recreational facility means you are allowed to have commercial zoning, then that is certainly a concern because there is a multitude of facilities in residential neighborhoods that are approved under a special permit for recreational facility and are not commercially zoned and are not intended for future commercial use. We are not interested in setting a precedent for any golf course to go to commercial zoning. The uses such as miniature golf, gift shop and driving range are things typical of any of the golf facilities that we have.

The community commercial uses are less than one-half mile away at 84th and Holdrege, and specifically, the Comprehensive Plan, on page F47, says that when a square mile of urban use contains a community or regional center and that center includes many of the uses found in a neighborhood center, then a neighborhood center would not be approved within that square mile. The northwest corner of 84th & Holdrege, which is within one-half mile of this area, is approved for B-2 and H-4 zoning (even though nothing is there yet) and the B-2 uses specifically have a use permit that talks about a grocery store, associated retail uses, convenience store, bank, all of those kinds of things. So, at the corner of 84th & Holdrege, both on the northwest corner and some of the other corners, we will see some of those neighborhood uses. That is certainly why within this square mile we don't see that it is appropriate to designate a new neighborhood center.

With regard to the question about access, Henrichsen advised that when the access on 84th was determined, it was with the understanding with this property owner that there would not be a median on 84th Street. Regent Heights and North Forty agreed to remove the median opening to the south over the objections of the city. The entrance to the west has been removed and the median opening now serves the Prairie Village development to the east. There is now a house on the west side so there would be no way to provide access.

In summary, Henrichsen stated that the significant quantity of commercial space, the fact that we have neighborhood centers, and the precedent of moving a golf course to commercial are all reasons to recommend denial.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02002.10
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Duvall moved to deny, seconded by Carlson and carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 02002
PROPOSAL #11
FROM PUBLIC AND SEMI-PUBLIC TO COMMERCIAL
ON PROPERTY GENERALLY LOCATED ONE BLOCK
SOUTHEAST OF SO. 70TH STREET AND "O" STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Approval.

Proponents

1. Brian Carstens appeared on behalf of **Krein Real Estate** to answer any questions.

There were no questions.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02002.11
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Bills-Strand moved approval, seconded by Taylor and carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 02002

PROPOSAL #12

COMMUNITY CENTER ½ MILE NORTH OF

40TH AND ROKEBY ROAD AND

NEW COMMERCIAL NEIGHBORHOOD CENTER

IN GENERAL LOCATION SOUTHEAST OF

27TH AND YANKEE HILL ROAD.

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Approval of the generalized locations.

Proponents

1. Michael Rierden appeared on behalf of **Lincoln Federal Savings Bank of Nebraska**, and provided a brief history of the proposal. He showed maps on the monitor. This whole area is currently designated urban density residential. Lincoln Federal has acquired 600 acres in this particular area. This proposal is for two amendments for a neighborhood designation at the corner of 27th and Yankee Hill Road, and a new commercial or community center designation at ½ mile north of 40th and Rokeby Road.

In working with the staff, an agreement has been reached that would show the community center generally at the intersection of Rokeby Road and 40th Street and to move the community center designation up to the half section line straddling 40th Street. Rierden indicated that the applicant has been in contact with the neighbors to the east and will work with them.

With regard to the neighborhood center, the applicant and staff have agreed that it be shown in the general location of the corner of 27th and Yankee Hill Road.

The specific designations for these centers will be worked out during the review of the changes of zone and use permits.

Opposition

1. Kent Seacrest appeared on behalf of **Ridge Development Company and Southview, Inc.** in opposition. Seacrest submitted that these designations are premature. He has not had the opportunity to talk with the applicant or staff; however, his clients, owning properties to the north, would request a level playing field. The existing neighborhood center and

commercial center have been approved and zoned at different locations. The neighborhood centers (N) are to be 3/4 to 1 mile apart and Seacrest finds it interesting how staff supports this. The community centers (C) are to be 2-3 miles apart. The current designation of the "C" at the corner of Rokeby and 40th Street is appropriate. But he does not believe it is fair to put two big "C's" within one-half mile of each other. If you have a "C" in one section, you're not supposed to have an "N" in the same section. This proposal is for a "C" and an "N" in the same section. Seacrest's clients had also originally submitted a commercial designation on the northwest corner of 27th and Yankee Hill over a year ago. Staff indicated that they would actively oppose this designation and anyone asking for an "N" on the southeast corner. Seacrest's clients withdrew their application. Seacrest is shocked to find that the staff now supports the "N" on the corner which they told us they opposed.

Seacrest also pointed out that his clients did not receive their "N" and "C" designations until they did a whole subarea plan, including a detailed traffic study, infrastructure plan, and an annexation agreement spelling out contract zoning, the traffic flow movements and how they would pay their fair share. He is amazed that staff would support a Comprehensive Plan designation before any of those things have been figured out. Seacrest recognizes that this section is going to have commercial, but he pleaded that the Commission "keep it fair"—follow the Comprehensive Plan and follow the standards that have already been set. We don't know the traffic consequences and it scares us.

Duvall asked staff to explain the spacing and proximity requirements. Steve Henrichsen of Planning staff cited from the Comprehensive Plan:

...When a square mile of urban use contains a community regional center and that center includes many of the uses found in a neighborhood center, then a neighborhood center would not be approved within that square mile. This provision would not apply if the incentives listed below (including greater residential population) have been met.

...

Then it goes on to list the incentive criteria in terms of encouraging more pedestrian orientation, greater commercial access—a whole series of other things, including a greater population within that square mile. It is upon this basis that we are looking at these "generalized" locations. The staff recommendation should have perhaps underlined and bolded **generalized location**. We are not recommending approval of a neighborhood center on the exact corner of 27th and Yankee Hill Road. We have discussed several different possibilities with the applicant for that neighborhood center. One of those may end up being on the corner itself. But certainly, within this square mile, depending upon how it develops, a neighborhood center, in addition to the community center, might be appropriate. However, as noted in the staff report, the further specific designation and details will have to wait until more of the items come forward. Mr. Maddox is very close to submitting a preliminary plat. We have had considerable discussions about multiple locations for the neighborhood center

within this area. When you start to look within the whole square mile on the southern and eastern side of it, there are several draws through the property where there are tree masses and areas where we would like to encourage retention of the floodplain areas. Some of those locations may have been potential locations for neighborhood centers, but when you start to look at the topography, they are not appropriate locations. That is certainly one of the reasons we thought this “general” area of about 160 acres for a “generalized” location at this point seemed an appropriate designation.

The same goes for the community center. The previous Comprehensive Plan provided that the designation was at 40th and Rokeby Road, which applied to anywhere generally within ½ mile of that area. The site that is included in this recommendation is within that ½ mile location. Again, in discussions with Mr. Maddox and some of the adjacent property owners, it seemed quite appropriate for that designation on the ½ mile. With regard to access, you would not have the community center at the intersection of two roads where turning movements become quite difficult. Again, when you start to look at the topography of the area and look at drainageways and the possibilities for buffering, certainly that all seems appropriate.

Henrichsen reiterated that all of those details have not yet come forward in terms of buffering, how the site would lay out, etc., and that is why the staff believes these designations are most appropriate to be “general” at this point. The original application by Mr. Maddox was for a very specific designation of an exact location of 20 acres of commercial on the southeast corner, and a very specific boundary for the community center. After further discussion, Mr. Maddox agreed that they do not have the details at this point to have a very specific designation. That is why a generalized location is appropriate.

Henrichsen sees a lot of distinctions between this proposal and 84th and Adams where the area has already been built out and is generally around 3 dwelling units per acre.

Without those details, Steward wondered what gives staff the confidence that the density will be increased in this development. Henrichsen responded that at this point we just have the preliminary indications from our discussion. The proposal as discussed to this point certainly has far more multi-family sites than we typically see. It has some areas of smaller single family and some areas of townhomes. The preliminary information shows that this would definitely be an area of both greater residential density and also would have far more in terms of road and pedestrian connections. The Comprehensive Plan shows a trail through this square mile. Henrichsen reiterated that the plans are still very preliminary and that is why the staff believes a general designation is appropriate until those more specific details come forward.

Response by the Applicant

Rierden informed the Commission that the developer has had at least 6 meetings over the last 12 months with the Planning staff. When this project first evolved, they were talking in terms of some limited density and the city has taken the position that they would like to have increased density to take advantage of infrastructure and the costs of infrastructure. Rierden's client is certainly in favor of increased density in the single family, towhhome and apartment complexes. They are currently talking about 20-25 dwelling units per acre. Rierden emphasized that they have come to agreement that these are "generalized" locations and the details will all be worked out at the time of the use permits, changes of zone and community units plans.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02002.12
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Taylor moved approval, seconded by Duvall.

Duvall is glad they are going ahead with this. He is hopeful the Ridge folks can work out similar plans and that the densities, urbanization and pedestrian come into play.

Steward believes Seacrest's argument for fairness in this case holds a certain measure of policy approach; however, he thinks the development strategies are remarkably different in the context of the potential of increase in density and getting an unusual option for a residential living environment. It is not so much the distance. The new Comprehensive Plan is based upon distance of traditional density. When we have higher density development, we need to support it, and in doing so, we need to look at closer proximity for the commercial and the neighborhood centers. He believes there is justification for these being treated differently, even though in close proximity.

Motion for approval carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 02002
PROPOSAL #13
FOR A NEIGHBORHOOD COMMERCIAL CENTER
AT THE NORTHEAST CORNER OF
N.W. 48TH STREET AND W. HOLDREGE STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Denial.

The applicant was not present.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02002.13
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Carlson moved to deny, seconded by Newman.

Carlson commented that the proposal looks intriguing but he would like to see it all brought in together.

Schwinn was disappointed that the applicant did not come down because this is a neighborhood that needs to have a commercial center.

Motion to deny carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 02002
PROPOSAL #14
FROM COMMERCIAL TO INDUSTRIAL
GENERALLY LOCATED AT S.W. 56TH STREET,
SOUTH OF "O" STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Approval.

Proponents

1. **Kent Seacrest** appeared on behalf of the applicant, **Land Construction, Inc.**, and thanked the staff for a recommendation of approval. This was a mapping error in the old Comprehensive Plan. We're putting commercial up against "O" and industrial on the back portion.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02002.14
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Duvall moved approval, seconded by Steward and carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting 'yes'.

COMPREHENSIVE PLAN AMENDMENT NO. 02003
TO AMEND THE "FUTURE CONDITIONS: PARKS,
RECREATION AND OPEN SPACE" SECTION
TO CORRECT THE TEXT REGARDING THE DESCRIPTION
OF NEIGHBORHOOD PARKS RELATING TO THE
NUMBER OF ACRES COMPRISING A TYPICAL
NEIGHBORHOOD PARK SITE.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn.

Staff recommendation: Approval.

Proponents

1. Lynn Johnson, Director of Parks and Recreation, explained that the intent of this amendment is to make the description of neighborhood parks consistent with the standard that has been established. Right now, we have slightly over two acres of neighborhood park land per thousand. As part of the comprehensive planning process, we stated that it is the intent to essentially maintain that standard. As we acquire and develop new neighborhood parks in the future, the intent would be to maintain about a 2-acre standard per thousand. When we originally prepared this, we based it on the net density within the city, which is about 3,000 residents per square mile. The Comprehensive Plan anticipates densities in the future of about 4,500 population per square mile. When you multiply 2 acres per 1,000 by 4,500 people, you end up with about a 9-acre park per square mile of residential development. We have requested this amendment so that the description and the level of service standard that is established would be consistent. We are recommending to change the average size of a neighborhood park from 5-6 acres to 8-12 acres.

There was no testimony in opposition.

Public hearing was closed.

COMPREHENSIVE PLAN AMENDMENT NO. 02003

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Duvall moved approval, seconded by Carlson and carried 9-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Taylor, Duvall and Schwinn voting

CHANGE OF ZONE NO. 3366

TEXT AMENDMENT TO TITLE 27

OF THE LINCOLN MUNICIPAL CODE

ADOPTING PROVISIONS FOR IMPACT FEES.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Duvall and Schwinn; Taylor absent.

Staff recommendation: Approval of the revised ordinance dated October 8, 2002, with the amendment dated October 14, 2002, as suggested by the Urban Development Department.

Steve Henrichsen of Planning staff submitted a letter from Don Herz, Director of Finance, and Allan Abbott, Director of Public Works & Utilities, in response to the letter from Mark Hunzeker dated October 15, 2002. Henrichsen also submitted an additional amendment proposed by the staff for the Commission's consideration to note in the ordinance that other governmental agencies that are exempt from zoning would also be exempt from paying impact fees.

Main Motion: Carlson moved approval of staff recommendation, as revised on October 8, 2002, and October 14, 2002, seconded by Steward.

Motion to Amend #1: Bills-Strand moved to amend to add subsection (p) to § 27.82.020, *Legislative Findings and Purpose:*

(p) Due to the shortfall of funds necessary to address the community's existing and future public infrastructure needs, the Mayor has created the Mayor's Infrastructure Finance Committee ("Committee") to develop a comprehensive financial package in addition to impact fees that ensures maintenance of the City's existing public infrastructure and the delivery of future public infrastructure to facilitate community growth. The Committee is responsible for preparing an integrated package of recommendations for the Mayor and City Council that combines the work product of three work groups: infrastructure cost savings/efficiencies, financial options and state legislation, operating under the Committee's direction as outlined in the Mayor's Infrastructure Finance Committee: Charge to the Committee dated October 3, 2002, as the same may be amended from time to time ("Charge to the Committee"). The Charge to the Committee calls for the Committee's overall work to be completed no later than June 1, 2003.;

to amend subsection (a) of § 27.82.050, *Imposition of Impact Fees*:

(a) Requirement. ~~On and after June 2, 2003 the effective date of this ordinance,~~
any person who applies for a building permit...;

to amend §§ 27.82.060(a)(3) and (5), 27.82.090(a) and 27.82.100(a) and (b)(1), changing
“the effective date of this ordinance” to June 2, 2003.;

to add Section 17:

Section 17. Notwithstanding the foregoing or any language to the contrary contained in this ordinance, no person shall be obligated to pay and the Impact Fee Administrator shall not be allowed to collect any impact fee under this ordinance unless on or before June 1, 2003, the Committee or Mayor has prepared and filed with the City Clerk an integrated package of recommendations consistent with the Charge to the Committee.;

and to renumber and amend the existing Section 17:

Section 178. That this ordinance shall be in full force and effect as of _____, 2002, after its passage and publication according to law.

The motion to amend was seconded by Duvall.

Schwinn asked for staff comment. Rick Peo of the City Attorney's office indicated that he has discussed the proposed amendment briefly with staff. He does have some concerns with the condition in the new Section 17 which would in effect provide that there are no impact fees if the report is not filed by June 1, 2003. For example, if the report was filed on June 2, 2003, it would require coming back to the Planning Commission and City Council to amend that section if we wanted to go forward. Peo is also concerned whether this illegally delegates legislative authority from the City Council to the Mayor or the Committee. If that is the case, he believes the ordinance is unlawful; however, he has not had an opportunity to research this fully. These comments would be his first impression.

Newman inquired as to what the new Section 17 does to the present system of exaction for infrastructure costs. Henrichsen believes that would be a question that would have to be answered if the City Council adopts the ordinance and it doesn't take effect until June. We would have to continue to discuss what happens in that interim period. However, Henrichsen stated that the staff is confident that the Committee will be able to complete its charge by the

deadline. Peo added that currently, the city and developers have been negotiating on the basis of monetary contributions, with the additional provision that the applicant agrees that if impact fees are adopted, they will pay with a deduction or credit for what has already been done and that process would have to continue.

Technically, Steward observed that the language in the proposed Section 17 does not in and of itself negate the ordinance. It speaks to “collection” of the fee and although it is date specific, he believes that the implication is that until and unless that condition is met, no collection can be made. Peo is just concerned as to whether that is a delegation Council is allowed to make. It should be their decision. He needs to research it further.

Steward indicated that he is in favor of supporting the amendment. It seems to be totally consistent with the intention of the creation of the Committee. In fact, he knows that this Committee is already at work and has had at least one meeting. He does not believe it is an unrealistic target date. Notwithstanding the concerns of the City Attorney, Steward believes it is absolutely consistent with the direction where we are heading, assuming that impact fees are the preferable vehicle for infrastructure financing.

Larson stated that he is in favor also because this indicates a recognition that impact fees are just a small part of the answer to this dilemma we are in and, for those against impact fees, this guarantees that we are proceeding with the rest of the package.

Motion to Amend #1 carried 8-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Duvall and Schwinn voting ‘yes’; Taylor absent.

Motion to Amend #2: Larson made a motion to amend to add the language as suggested by staff regarding “other governmental agencies”, seconded by Steward. The effect of this amendment is that it exempts other governmental entities that have been granted condemnation power by the State Legislature:

Add to § 27.82.020:

() The City recognizes that under Nebraska law the power of eminent domain is superior to the zoning power and that the City, under its zoning authority, is not permitted to prevent or place limitations upon a public use of property in the furtherance of which a governmental entity has been granted condemnation power by the State Legislature. Therefore, the City finds that impact fees cannot be collected for governmental projects for the construction of which the agency in question has the power to condemn or appropriate lands by eminent domain.

Add to § 27.82.060(a):

(8) Development or construction by any governmental entity for which the governmental entity has the statutory power of eminent domain shall not pay any impact fees since these entities are exempt from local zoning.

Bills-Strand noted that this includes the Lincoln Public Schools.

Motion to Amend #2 carried 8-0: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Duvall and Schwinn voting 'yes'; Taylor absent.

Discussion on the Main Motion, as amended:

Bills-Strand urged that if impact fees are enacted, she wants the City Council to keep a close watch on how it is impacting the city as a whole. Twenty percent of our work force is related to construction jobs and those people live in our existing neighborhoods. She has heard that they do not want their water rates to go up, but it's only going to be \$2.00 on a water bill. It's a lot more if a carpenter can't feed his family because he's out of work.

Larson stated that he will also vote in favor. He is mindful of the fact that it is going to have some small impact on home buyers, but he believes it will be minimal based on the fact that they are paying a negotiated fee now. He believes the whole issue here is not parks, water, or sewer. It's streets—that's the real problem.

Carlson referred to the Comprehensive Plan. We sat here six months ago and approved a fairly ambitious plan and we actually amended the Plan to include an additional 20% of area to be serviced. At that time, we did it knowing that we did not have the financial resources to pay for it. If we are going to adopt that Plan and if we believe in that Plan, we have an obligation to create financing tools that will make that Plan a reality. The impact fees are one of the tools that are specifically called out in the Comprehensive Plan for which this Commission voted. No one likes the current system—it's not fair and it's not predictable—and he has not heard anyone suggest that we should keep doing what we're doing. There is significant community support—not everyone—not every group, but we have seen neighborhoods, Downtown Lincoln Association, the Chamber of Commerce and several prominent business leaders supporting the Plan, but they want to make sure the larger financial picture is addressed. As we have heard, that is happening with the Infrastructure Finance Committee, and we will create a larger financial package to pay for the whole plan. But in order to do that, the community needs to know what tools they have to create that bigger plan, and impact fees need to be one of those tools. They are called for in the Plan, they have community support, and if we truly believe in improving Lincoln's future, then we need to vote in favor and let the Committee and the City get to work.

Newman hopes that we all can look back a year or two from now and say this was the best decision we have made for the community. It is one very small piece of the big part of financing.

Krieser agreed with Larson.

Steward agreed with Bills-Strand's comments about monitoring the impact. That, too, was a goal of the new Comprehensive Plan. We are in a new era with this plan. The community wants better information to know how our infrastructure and our Capital Improvement Program is being financed and we want it monitored. It was a part of the Comprehensive Plan and we're expecting the Planning Director to present this body, the City Council and the Mayor with better information on an annual basis about how the Comprehensive Plan and how the Capital Improvements Program function together. This is another strategy in that piece.

Steward commented further that there have been and there continue to be numerous studies across the country and other communities that continue to say residential rooftop development in and of itself, by itself, does not pay for all community services. It hasn't and it never will. It's the total community—it's commercial that goes along with and it's a healthy, vibrant, general local economy that keeps us at a low scale.

Steward also pointed out that *USA Today* published an index of housing costs all across the country and Lincoln is almost (relatively speaking) at the bottom. While it looks expensive and costs do continue to go up, relatively speaking to the rest of the country and other urban areas, we're not disadvantaged for housing prices, except that low income and moderate income housing is his biggest concern in passing this ordinance. It will call for a renewed attitude and renewed policies for the city and the citizens to be sure that the disadvantaged people in this community are not hurt through this process. But that's not unusual either. There is no city in this country that has ever had a decent low income housing program without subsidizing and without supporting that effort for choice. Steward believes this is the right thing to do. This is the right time and he believes it will stimulate us as a community to be careful about what we want, what we can afford and how to plan for it.

Duvall still has concerns that the first time home buyer or the lower starter home will have to pay the full \$4500.00. It will be difficult for people on a tight budget. We've put in a fee and lifted the bar all the way across the board.

Schwinn noted that the Commission has received an awful lot of information. In the last day, he has managed to go through most of the Comprehensive Plan again and the staff reports and he found that we did good work when we did the Comprehensive Plan and he is proud of where we have come. He has some concerns about some of the information brought forward by the staff. There were graphs that came out this summer that showed our income mysteriously disappearing. The Duncan report was very comprehensive and very good, and

if you read that report you will find that there are a lot of other alternatives that have not been discussed the last nine months. He is not sure we should have focused on this one issue only, and he is not sure that was proper for our community. But this was obviously the desire of the administration to move forward with impact fees so we've let everything else fall to the side. The only problem Schwinn had with the Duncan report was that they did not go into any extenuating circumstances when they talked about the impact of a new house. Yes, there are reports across the country that new housing does not pay for itself, but there are other studies that have been done by the University of Florida, Texas A & M University and North Carolina University that all say that housing more than pays for itself, and over a five-year period actually goes positive.

Schwinn further recalled testimony, especially from the Fair Share Alliance, about how we are spending all of our money on our fringes. Schwinn pointed out that the University Place Neighborhood has a new swimming pool and a new grade school; the Planning Commission just approved 9.3 million dollars in redevelopment on the North 27th Street Corridor in the Hawley, Clinton and Malone neighborhoods--both of their schools have been rebuilt; the sewer and water in the Clinton neighborhood was rebuilt this summer--thus, we are spending money in those areas. The Landon's neighborhood has a new grade school, a rebuilt grade school, a new high school, a new library, a new park and all of the major arterials are built to the highest design standards that we have. We have not turned our backs on the inner city. Thus, Schwinn has concerns about this discussion of "fair share".

Schwinn further commented that traditionally, across the country, impact fees are used to slow growth. We had a lot of discussion about Ft. Collins, Colorado. Their growth rate was about 9.3%--their impact fees have lowered the growth rate to 6%. The cost of a single family home has nearly doubled in 10 years from \$130,000 to \$250,000. We haven't seen that kind of increase around here.

Schwinn further noted that the Duncan representative and the Chamber representative talked about some of the communities within which they have worked, one being Flower Mound, Texas, which is one of the most exclusionary cities in the country. They don't even allow multi-family or retirement homes. So, you have to wonder what the purposes are behind the impact fees.

Ultimately, Schwinn does not believe impact fees are for Lincoln with a steady 1.6 percent growth rate for the last 20 years. We have made some mistakes.

Political mistakes were made. Some mistakes have been made within the Public Works Department that have not allowed us to move forward and which have put us in this deficit. Some wonder if we really do have a deficit. Schwinn believes that impact fees will divide our community, pitting neighborhood against neighborhood. Instead of having neighborhoods working for one community, we're going to have neighborhoods working for themselves.

In summary, as far as conformance with the Comprehensive Plan, Schwinn believes that the Comprehensive Plan discusses over and over again that no decision should be made that will impact the cost of housing or the affordable housing factor. This ordinance will affect our working families, firefighters, police officers, teachers, nurses. Our property values will go up as result of the impact fees, and "if you think the taxes are going to go down, you're kidding yourself. You will ultimately pay more for the right to live in Lincoln than you did before." For all of these reasons, Schwinn stated that he will vote against the motion.

Main Motion for Approval, with two amendments carried 6-2: Steward, Bills-Strand, Krieser, Larson, Carlson and Newman voting 'yes'; Duvall and Schwinn voting 'no'; Taylor absent.

MISCELLANEOUS NO. 02005

TEXT AMENDMENT TO TITLE 26

TO AMEND THE BIKE TRAIL EASEMENT

FROM 14 TO 20 FEET; TO CLARIFY REFERENCE

TO THE COMPREHENSIVE PLAN; AND TO PROVIDE

FOR DEDICATION OF PARK LAND.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Members present: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman, Duvall and Schwinn; Taylor absent.

Staff recommendation: Approval.

Carlson moved approval, seconded by Newman and carried 7-1: Steward, Bills-Strand, Krieser, Larson, Carlson, Newman and Duvall voting 'yes'; Schwinn voting 'no'; Taylor absent.

There being no further business, the meeting was adjourned at 4:20 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on October 30, 2002.